

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DEACON THOMAS FRAZIER,

Plaintiff,

Case No. 1:23-cv-445

v.

Judge Michael R. Barrett

FIFTH THIRD BANK,

Defendant.

ORDER

This matter is before the Court on the Report and Recommendation ("R&R") filed by the Magistrate Judge on July 24, 2023. (Doc. 6). Proper notice was given to Plaintiff (who proceeds pro se) under 28 U.S.C. 636(b)(1)(C) and Fed. R. Civ. P. 72(b), including notice that he may forfeit rights on appeal if he fails to file objections to the R&R in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); see *Berkshire v. Dahl*, 928 F.3d 520, 530 (6th Cir. 2019). No objections to the R&R (Doc. 6) were filed and the time to do so has passed.

The R&R (Doc. 6) of the Magistrate Judge is hereby **ACCEPTED** and **ADOPTED**. Consistent with the recommendations by the Magistrate Judge, Plaintiff's Complaint (Doc. 5) is **DISMISSED with prejudice** (pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i),(ii) & 1915A(b)(1)) because it is frivolous and fails to state a claim upon which relief may be granted. In addition, the Court certifies (pursuant to 28 U.S.C. § 1915(a)(3)) that an appeal of this Order would not be taken in good faith and thus denies Plaintiff leave to appeal *in forma pauperis*. As a non-prisoner, however, Plaintiff remains free to apply to proceed *in forma pauperis* in the Sixth Circuit Court of Appeals. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), *overruling in part Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6th Cir. 1997).

IT IS SO ORDERED.

s/ Michael R. Barrett
Michael R. Barrett, Judge
United States District Court